

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	CR 05-1849 JH
)	
DANA JARVIS, <i>et al.</i>,)	
)	
Defendant.)	

SECOND UNOPPOSED MOTION TO CONTINUE SENTENCING HEARING

COMES NOW Defendant Dana Jarvis, by and through his counsel of record, and files this unopposed motion to continue his sentencing hearing, currently scheduled for January 22, 2009, on the following grounds:

1. Supervisory Assistant U.S. Attorney James Braun, does not oppose this motion.
2. In the Defendant's first unopposed motion to continue the sentence, he advised the Court that he was unable to complete the review of the pre-sentence report with counsel. Said review was completed on January 8, 2008, during another multi-hour session at TCDC and a half hour phone call later that day. The review took a significant period of time as a result of the length of the offense conduct and a discussion of the Defendant's version of said conduct.
3. Counsel for both Parties met on January 9, 2009 for more than three hours in an effort to correct grammatical and typographical and other obvious errors in the pre-sentence report, to discuss changes in the pre-sentence report, and to resolve various defense objections to it. While the Parties made some progress in that regard, it became clear that the Defendant would have to file his own exceptions.

That pleading has been drafted and is in the editing and verification of authorities stage, after which it has to again be reviewed with Mr. Jarvis at TCDC. The objections will be filed next week after the client review.

4. In addition, as a result of the significant difference between the pre-sentence report's guideline calculation and the agreed upon sentence, undersigned counsel has determined that a sentencing memorandum is necessary. That pleading is anticipated to be filed within approximately ten days, again depending largely on getting through the client's review at TCDC. Such filing would unquestionably be later than the currently set date for sentencing of January 22, 2009. Since both the United States and the Probation Department has the opportunity to respond to the Defendant's pleadings, and the Defendant may reply to either or both, it is respectfully requested that the Court re-set the sentencing hearing for a date in mid to late March, 2009.

WHEREFORE, Defendant Dana Jarvis respectfully requests the Court continue the sentencing hearing as noted.

Respectfully submitted,

I hereby certify that a true copy of this pleading was sent to SAUSA James Braun via electronic filing and e-mail on this 16th day of January, 2009.

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